

REMARKS

The Office Action mailed February 25, 2005 has been reviewed and carefully considered. Claim 2 has been redrafted into independent form, and claim 1 has been canceled. Claim 6 has been accordingly updated to eliminate dependency from the canceled claim. Claims 4 and 5, which are apparatus and system claims corresponding to method claim 1, which is now canceled, have been revised to likewise recite the language particular to claim 2. No other claim revisions are made. Reconsideration of the above-identified application, as amended and in view of the following remarks, is respectfully requested.

Claims 1-6 stand rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 6,167,084 to Wang et al. ("Wang") in view of U.S. Patent No. 6,310,915 to Wells et al. ("Wells").

The applicant agrees with the Office Action, with regard to Wang failing to disclose or suggest, "said indicator being computed from the input compressed data signal independent of the regulation process."

However, the Office Action further suggests that Wang complexity C corresponds to the indicator of the present claim 1.

The Office Action further suggests that Wang is silent on some points, so that it would have been obvious to implement those points in view of Linzer.

The applicant traverses the latter two suggestions by the Office Action.

The target number of bits T_i in Wang is produced by a regulation process. The T_i produced alters R and Q. This, in turn, alters C. Alteration of C alters T_i for the new program frame (col. 8, line 63 – col. 9, line 9). In effect, alteration of T_i for the new

program frame has occurred in the regulation process. Since R and Q for next frame are accordingly altered, which, in turn, alters C, it follows that the regulation process alters C, i.e., what the Office Action deems to be the “indicator” of the present claim 1.

The above-described procedure is the essence of Wang, to modify it to fit the present claim 1 would amount to modifying the principle of operation of the primary references. Such modification is *prima facie* non-obvious.

**THE PROPOSED MODIFICATION CANNOT
CHANGE THE PRINCIPLE OF OPERATION
OF A REFERENCE**

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). MPEP 2143.02.

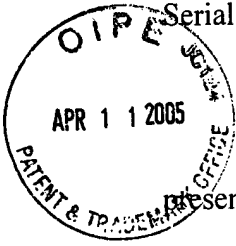
Since the proposed modification would modify the principle of operation of the primary reference, the rejection lacks validity.

Reconsideration and withdrawal of the rejection are respectfully requested.

Since the other independent claims embody the same language quoted above from claim 1, they likewise distinguish patentably over the proposed combination of references.

Each of the other rejected claims depends from a respective base claim, and is deemed patentable at least due to its dependency.

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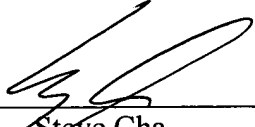


For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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4/8/05